IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 15TH OCTOBER 2007 / 23RD ASWINA 1929

CRP.No. 658 of 2006()

AGAINST THE ORDER DATED 31/07/2006 IN IA.NO.3311/2006 IN OS.931/1989 of PRL.M.C -I,KOZHIKODE

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REVN. PETITIONER: PETITIONER/PLAINTIFF

P.PANKAJAVALLY AMMA, AGED 55 YEARS,
D/O.GOVINDAN NAIR, THAYYIL HOUSE,
EDAKKAD AMSOM AND DESOM OF KOZHIKODE.

BY ADV. SRI.AVM.SALAHUDIN

RESPONDENT: RESPONDENT/DEFENDANT

M.K.UNNIKRISHNAN, AGED 56 YEARS,
S/O.JANAKI AMMA, MOOLAMVALLIKIZHALATH,
EDAKKAD AMSOM DESOM, KOZHIKODE.

BY ADV. SRI.K.M.JAMALUDHEEN
SMT.LATHA PRABHAKARAN

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 15/10/2007, ALONG WITH CRP NO. 661 OF 2006 THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDERS ON IA 2523/06 & IA 464/07 IN IA 2523/06 IN CRP 658/06

DISMISSED.

SD/- M.N.KRISHNAN,JUDGE.

15/10/2007

M.N.Krishnan, J.

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C.R.P.NoS.658 & 661 of 2006

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Dated this the 15th day of October, 2007.

ORDER

C.R.P.No.658 of 2006 is preferred against the order of the Principal Munsiff Court-I, Kozhikode in I.A.No.3311 of 2006 in O.S.No.931 of 1989 and the other revision is preferred against the order of the Principal Munsiff Court-I, Kozhikode in I.A.No.3312 of 2006 in O.S.No.41 of 1998. Both these applications were filed seeking permission to withdraw the suit with liberty to file fresh suit. The court after consideration of the entire materials, permitted the plaintiff to withdraw the suit, but declined liberty to file another suit. When such an order is passed, the plaintiff is put to great hardship. Neither she is permitted to prosecute the present suit even if defective nor she is permitted to file the suit curing the defects and therefore, remedy is lost to the plaintiff. That cannot be done. If there are no grounds to give permission to withdraw the suit to file a fresh

suit, then that factum may have to be intimated to the plaintiff, so that she can withdraw the application and continue to proceed with the suit by seeking necessary amendments. Whatever it may be, it can be heard and disposed of by the court after hearing both sides.

2. Therefore, I set aside the orders passed by the court below and direct the court below to restore the suits back to file and give the plaintiff an opportunity to proceed with the case and if she files an application for amendment, let it be considered after hearing both sides and suits be disposed of in accordance with law.

Civil Revision Petitions are disposed of accordingly.

M.N.Krishnan,
Judge.

ess 15/10